

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Corey Smith,

Plaintiff,

v.

Wal-Mart Stores, Inc.,

Defendant.

Civil No. 16-cv-4277 (MJD/HB)

**ORDER ON REPORT
AND RECOMMENDATION**

The above-entitled matter came before the Court upon the Report and Recommendation of the United States Magistrate Judge. No objections have been filed to the Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, and all the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. The Report and Recommendation is **ADOPTED**;
2. Proposed Paragraphs 3, 4, and 5 of the draft agreement shall not be included as part of the materials terms of the settlement to which the parties agreed;
3. Proposed paragraphs 9.b. and 9.d. reflect the material terms of the settlement and shall be included in the final agreement;
4. Proposed paragraph 10 shall not be included in the final agreement because the nondisclosure provisions of the agreement, together with the rules of evidence in both state and federal courts that make compromise offers inadmissible except for limited purposes, *see, e.g.,* Fed. R. Evid. 408, adequately implement the terms of the settlement

5. Proposed paragraph 11 shall not be included in the final settlement agreement, but the final agreement shall include a simple statement to the effect that Plaintiff represents, warrants and covenants to Walmart that he has the right and authority to execute this Agreement and to receive the consideration specified in it, and that he has not transferred or assigned the right to sue Walmart for the claims and damages that are the subject of this settlement to any other person or entity;
6. Proposed paragraph 12 shall not be included in the final agreement, but the final agreement shall contain a provision stating that Plaintiff expressly disclaims any reliance on statements, actions or omissions made by Walmart or its attorneys or agents regarding the contents and legal consequences of this Agreement; and
7. Proposed paragraph 14 shall not be included in the final settlement agreement.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 20, 2017

s/Michael J. Davis

MICHAEL J. DAVIS

United States District Court Judge